

REMARKS

Applicants have additionally cancelled claims 5 and 12 and added new claims 23 and 24. Accordingly, claims 6-9, 11, 14-16, 23, and 24 are pending. No new matter has been added.

The Invention

The claimed invention, as summarized by the current main claim (claim 14), concerns an animal-scaring device having a kite in the shape of a predatory bird comprising a body and a pair of wings, each of the wings being configured so that a ratio between a maximum width of the wing and a length thereof (W/L) ranges between about 0.4-0.6, the device being coupled to a manually operable reel by a central line, the reel having a central hub, a plurality of angularly spaced pins each provided with a respective free end, and a pair of spaced apart, endless sides attached to the free end of the plurality of pins, wherein the reel is rotatable in opposite directions to modify a length of the central line.

Art Rejections

In the Office Action, the Examiner rejected claims 6-9, 11, and 14-16, under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 2,442,417 to Lang in view of U.S. Patent 6,241,191 to Coronado in further view of U.S. Patent 2,219,500 to West. All of the rejected claims other than claim 14 depend from claim 14.

According to the Examiner, Lang discloses an animal-scaring device in the shape of a predatory bird having a body and a pair of wings in accordance with the specifics of the present invention. The Examiner recognizes that Lang does not teach the animal-scaring device of the invention since Lang does not disclose or suggest that the device is coupled to a manually operable reel by a central line, much less a manually operable reel having a central hub, a plurality of angularly spaced pins and outer endless sides. Lang also does not teach or suggest the reel is rotatable in opposite directions to modify the length of the line.

The Examiner alleges that the noted deficiencies of Lang are taught by Coronado and West. Specifically, the Examiner alleges that Coronado teaches a manually operable reel attached to a kite by a central line. The Examiner further alleges that unlike Coronado, West teaches a reel having a central hub, a plurality of angularly spaced pins and outer endless sides, the reel being rotatable in opposite directions to modify the length of the line.

Based on the disclosures of the above three cited references, the Examiner considers the main claim (claim 14) of the present invention obvious, and hence, unpatentable. Based on additional details taken from these references, the Examiner also considers the further limitations of dependent claims 6-9, 11, 15, and 16 to be unpatentable.

Applicants respectfully disagree with the Examiner's premise.

In order to establish a *prima facie* case of obviousness, one of the criteria to be met is that there must be some suggestion provided in the references, either explicitly or implicitly provided, which would motivate a person of ordinary skill in the art to combine the references to arrive at the claimed invention. See MPEP §2142.

West teaches a fishing reel, and particularly, fishing reels for fishing through holes in ice or from wharves, boats, and the like (see page 3, left column, lines 1-7 of West). West nowhere discloses or suggests that the fishing reel could be coupled to a kite. Even further, West nowhere discloses or suggests that the fishing reel could be useful for, or adapted for, deploying, guiding, holding, or otherwise manipulating an airborne object, much less a kite.

West's alleged disclosure of a rotatable reel having a central hub and a plurality of angularly spaced pins and outer endless sides is clearly limited to fishing reels. As would be understood by the average person, there are very different requirements for manipulating an object in water via a string or cord for fishing purposes, as in West, as compared to manipulating an object in air (*e.g.*, a kite) by such a string or cord, as in the claimed invention. Accordingly, West's disclosure of a fishing reel, including details on how the fishing reel could be used in fishing (see page 3, left column, lines 1-7 and lines 45-51, and page 4, left column, lines 31-39 of West), would certainly not provide any motivation to a person of ordinary skill in the art to couple the disclosed fishing reel to a kite, much less a kite intended to function according to the present invention as an animal-scaring device.

In view of the above, Applicants have shown that the references cited by the Examiner do not individually or in combination render the pending claims unpatentable.

On page 5, section 3 of his Office Action, the Examiner has indicated claims 5 and 12 to be allowable if rewritten in independent form by including the limitations of the base claim (*i.e.*, independent claim 14) and any intervening claims. In accordance with the Examiner's indications, Applicants have included new claim 23, which incorporates the contents of claim 5 along with the limitations of claim 14.

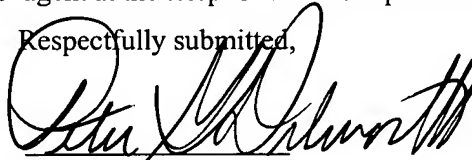
Applicants have also included new claim 24, which incorporates the contents of claim 12 along with the limitations of claim 14. Applicants have accordingly cancelled claims 5 and 12.

As amended, Applicants have rewritten claims 5 and 12 in independent form by including into them the limitations of the base claim. Accordingly, claims 23 and 24 are necessarily patentable and in condition for allowance.

Applicants wish to emphasize that the amendments noted above are not to be construed as an admission by Applicants of the Examiner's allegations that any of the pending claims are unpatentable over any of the art cited by the Examiner. Rather, the amendments have been made in order to expedite allowance of the pending claims.

In view of the above amendments and remarks, allowance of pending claims 6-9, 11, 14-16, 23, and 24 is earnestly requested. If the Examiner has any questions concerning this application, it is respectfully requested that he contact applicants' agent at the telephone number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Dilworth", with a stylized flourish at the end.

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